IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 33300 of 2007(L)

AS.179/2006 of ADDL.DISTRICT COURT-I,MAVELIKKARA
OS.240/2004 of MUNSIFF COURT, MAVELIKKARA

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PETITIONER:

Rohini, Anil Bhavan, Erezha North, Chettikulangara.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:

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1. Sosamma, Rosa Bhavan, Erezha North, Chettikulangara PO, Mavelikkara, now residing at Maveli House, Fort Mavelikkara.

2. Anil, Anil Bhavan, Erezha North, Chettikulangara PO, Mavalikkara.

3. Sunil, Anil Bhavan, Erezha North, Chettikulangara PO, Mavalikkara.

4. Sanil, Anil Bhavan, Erezha North, Chettikulangara PO, Mavalikkara.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33300 of 2007

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Dated this the 12th day of November, 2007.

JUDGMENT

This Writ Petition is filed seeking a direction to the Additional District Court, Mavelikkara to consider and dispose of A.S.No.179 of 2006 and to direct the Munsiff's Court, Mavelikkara to defer the execution of the decree. Suit is one for partition. A preliminary decree has been passed. Against that decision, the defendants have preferred an appeal and along with the appeal, they have also filed an application for stay. It is pending consideration. Meanwhile, the plaintiff has filed an application for issuance of a Commission to divide the property by metes and bounds for the purpose of effecting the final decree for partition. Learned counsel for the writ petitioner submits that if a final decree is passed, it will cause hardship and virtually the appeal will become infructuous.

2. Therefore, I direct the First Additional District Court,

Mavelikkara to pass appropriate orders on the stay application within a period of three weeks from today. The court shall consider whether the entire final decree has to be stayed or the passing of the final decree alone has to be stayed after hearing both sides.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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